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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/528,839

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Shigeo Hayashi

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EXAMINER

CHU, WUTCHUNG

ART UNIT

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2619

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DELIVERY MODE

01/10/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/528,839

Applicant(s)

HAYASHI ET AL.

Examiner

Wutchung Chu

Art Unit

2619

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 14-22 is/are rejected.
- 7) ☒ Claim(s) 11-13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 3/25/2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 3/25/2005
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claims 11-13 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims 11-13 not been further treated on the merits.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 17-20 are rejected under 35 U.S.C. 101 because the claim is "computer program" per se is not a "physical thing" and does not falls into one of the four statutory classes of invention: process, machine, manufacture, or composition of matter. It is suggested the claims to be written as in terms of "computer" readable medium, stored with embodied with or encoded with a "computer" program or computer executable instructions.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-8, 10, 16, 18, and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Brosey (US6948186).

Regarding claim 1, Brosey discloses a multitasking message extractor (**see col. 1 line 55-col.2 line2**) comprising:

- a header analyzing section for analyzing a header of an inputted packet (**see col. 5 lines8-11 and col. 5 line 45-50**) and determining whether data stored in a payload is start data containing start information or other data (**see col. 5 line 64-66**);
- a data extracting section for referring to an analysis result from the header analyzing section(**see col. 1line 66-col.2 line 2**), and extracting the data from the payload of the packet (**see col. 6 line 25**);
- a buffer for storing the data extracted by the data extracting section (**see col. 1line 66-col.2 line 2**);
- a buffer controlling section for controlling a stored position and an accumulated data amount of the data in the buffer (**see col. 6 lines2-6**); and
- a start data identifying section for generating information for identifying the start data in the buffer (**see col. 5 lines 64**), based on the analysis result from the header analyzing section and the control by the buffer controlling section (**see col. 6 lines 2-6**).

Regarding claim 2, Brosey teaches the start data identifying section comprises:

- a start position memory for retaining stored position information of the start data stored in the buffer (**see col. 5 lines 64-66**); and
- a number-of-starts counter for counting a number of the start data stored in the buffer (**see col. 6 lines 30-37**).

Regarding claim 3, Brosey teaches the start position memory is a register for retaining the stored position information (**see col. 6 lines 9-16**).

Regarding claim 4, Brosey teaches the start position memory is a memory, constructed independently of the buffer, for retaining the stored position information (**see col. 1 line 66-col.2 lines 2**).

Regarding claim 5, Brosey teaches the stored position information is a write address in the buffer storing the start data (**see col. 7 line 1, col. 7 lines 44-46, and col. 8 lines 62-65**).

Regarding claim 6, Brosey teaches the stored position information is information representing a position of the start data relative to first data stored in the buffer (**see col. 6 lines 38-41**).

Regarding claim 7, Brosey teaches the buffer controlling section compares the accumulated data amount against a predetermined threshold amount and, when the accumulated data amount becomes equal to or greater than the threshold amount,

outputs a predetermined notification signal (**see col. 11 lines 24-34 where the message processor identifies lost messages either due to corrupt packets or to buffer overflow, and it is inherent for buffer to have a predetermined level for it to detect overflowing, which corresponds to threshold amount**).

Regarding claim 8, Brosey teaches when detecting the predetermined notification signal, the number-of-starts counter displays a number of the start data contained in an amount of data corresponding to the threshold amount (**see col. 7 lines 62-67**).

Regarding claim 10, Brosey teaches the threshold number is a number of areas in the start position memory which enables retention of the stored position information (**see col. 6 lines 30-36**).

Regarding claim 16, Brosey teaches decode processing method for decoding data stored in a buffer by using information for identifying start data containing start information that is included in data stored in the buffer (**see col. 2 lines 3-24**), comprising:

- a reading-out step of reading out data from the buffer with a predetermined timing (**see col. 5 line 66-col.6 line 6**);
- a separating step of separating the start data contained in the data read out into start information and data based on information for identifying the start data (**see col. 1 line 66 – col. 2 line 2**); and

- a decoding step (**see figure 4b decode**) of performing a decode process for the data read out based on the start information (**see col. 5 line 62 – col. 6 line 6**).

Regarding claim 18, Brosey teaches computer readable program for a computer to execute a decode processing method for decoding data stored in a buffer by using information for identifying start data containing start information that is included in data stored in the buffer (**see col. 2 lines 3-24**),

- wherein the program (**see col. 3 lines 4-33**) causes the computer to execute:
- a reading-out step of reading out data from the buffer with a predetermined timing (**see col. 5 line 66-col.6 line 6**);
- a separating step of separating the start data contained in the data read out into start information and data based on information for identifying the start data (**see col. 1 line 66 – col. 2 line 2**); and
- a decoding step of performing a decode process for the data read out based on the start information (**see col. 5 line 62 –col. 6 line 6**).

Regarding claim 20, Brosey teaches medium having recorded thereon a computer readable program for a computer (**see col. 3 lines 3-44**), to execute a decode processing method for decoding data stored in a buffer by using information for

identifying start data containing start information that is included in data stored in the buffer (**see col. 2 lines 3-24**),

- wherein the program (**see col. 3 lines 3-44**) recorded in the medium causes a computer to execute:
- a reading-out step of reading out data from the buffer with a predetermined timing(**see col. 5 line 66-col.6 line 6**);
- a separating step of separating the start data contained in the data read out into start information and data based on information for identifying the start data (**see col. 1 line 66 – col. 2 line 2**); and
- a decoding step of performing a decode process for the data read out based on the start information (**see col. 5 line 62 –col. 6 line 6**).

Claim Rejections - 35 USC § 103

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 9 rejected under 35 U.S.C. 103(a) as being unpatentable over Brosey.

Regarding claim 9, Brosey teaches the buffer controlling section compares the number in the number-of-starts counter (**see col. 6 lines 30-36, and col. 7 lines 62-67**), and does not explicitly disclose:

- against a predetermined threshold number and, when the number becomes equal to or greater than the threshold number, outputs a predetermined notification signal.

However, Brosey teaches the message processor identifies lost messages either due to corrupt packets or to buffer overflow (**see col. 11 lines 24-34**), where a upper limit is set to according to the size of the buffer and a message is sent if limit exceeded. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include threshold number of number-starts counter, because a predetermined threshold, as in Brosey, is a method for maintaining buffer.

8. Claims 14, 15, 17, 19, 21, and 22 rejected under 35 U.S.C. 103(a) as being unpatentable over Brosey in view of Fujii et al., hereinafter Fujii, (US2002/0067744).

Regarding claims 14, 15, 17, 19, and 21, Brosey teaches when a transport stream packet under MPEG (**see col. 3 lines 59-60**) and program (**col. 3 lines 4-33**) technique that,

- the header analyzing section analyzes a header of a TS packet in the inputted transport stream (**see col. 3 lines 59-60**), and determines whether data stored in a payload is start data containing a header or other data (**see col. 5 line 64-66**),
- the data extracting section refers to an analysis result from the header analyzing section (**see col. 1line 66-col.2 line 2**), and extracts data from the payload of the TS packet (**see col. 6 line 25**),
- the buffer stores the data extracted by the data extracting section (**see col. 1line 66-col.2 line 2**),
- the buffer controlling section controls a stored position and an accumulated data amount of the data in the buffer (**see col. 6 lines 2-6**), and
- the start data identifying section generates information for identifying the start data in the buffer (**see col. 5 lines 64**), based on the analysis result from the header analyzing section and the control by the buffer controlling section(**see col. 6 lines 2-6**).

disclose all the subject matter of the claimed invention with the exception of:

- stores variable-length PES data is inputted

Fujii from the same or similar fields of endeavor teaches the use of PES packet of variable length (**see Fujii paragraph 54**). Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to use the PES packet in the multitasking message extractor of Brosey in order to elementary stream to be divided into packets and encapsulated sequential data.

Regarding claim 22, Brosey further integrates circuitry functioning as

a decode section for reading out data from the buffer with a predetermined timing (**see Brosey col. 5 line 66-col.6 line 6**), obtaining information for identifying the start data from the start data identifying section (**see Brosey col. 5 line 64-66**), separating the start data contained in the data read out based on the stored position information and the count number into start information and data (**see Brosey col. 1 line 66 – col. 2 line 2**), and performing a decode process for the data read out based on the start information (**see Brosey col. 5 line 62 –col. 6 line 6**).

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wutchung Chu whose telephone number is 571 270 1411. The examiner can normally be reached on Monday - Friday 1000 - 1500EST.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edan D. Orgad can be reached on 571 272 7884. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/WC/
Wutchung Chu



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